

from its failure to resolve its examination of Senator Moseley-Braun's campaign fund. According to a Chicago Tribune article dated April 8, 1997, FEC spokeswoman Sharon Snyder mentioned "a lack of manpower, a lack of time" and cited the impending expiration of the statute of limitations. She went on to say: "There's no statement here: no exoneration, no Good House-keeping seal of approval, just no action."

Thus, with respect to the FEC investigation, as with the IRS requests for grand juries, many questions remain unresolved. However, the visits with General Sani Abacha are undisputed and, in their context, they are so unusual and bizarre as to alone disqualify her as an ambassador.

Mr. President, I recognize the Senate must fulfill its constitutional obligation. This body has given Senator Carol Moseley-Braun a select responsibility. While I cannot in good conscience support her nomination, I wish her well in her new post.

Mr. KENNEDY. Mr. President, I strongly support our distinguished former colleague, Senator Carol Moseley-Braun, and I urge the Senate to confirm her as Ambassador to New Zealand. Senator Carol Moseley-Braun served the people of Illinois with great distinction during her six years in the Senate. She fought hard for the citizens of Illinois and for working men and women everywhere, and it was a privilege to serve with her. In her years in the Senate, she was a leader on many important issues that affect millions of Americans, especially in the areas of education and civil rights. She worked skillfully and effectively to bring people together with her unique energetic and inspiring commitment to America's best ideals.

Senator Moseley-Braun has been breaking down barriers all her life. She became the first African-American woman to serve in this body. Her leadership was especially impressive in advancing the rights of women and minorities in our society. As a respected former Senator, she will bring great stature and visibility to the position of Ambassador to New Zealand. That nation is an important ally of the United States, and it is gratifying that we will be sending an Ambassador with her experience and the President's confidence.

Mrs. FEINSTEIN. Mr. President, I rise today to express my strong support for the nomination of my friend and former colleague, Carol Moseley-Braun, to be Ambassador to New Zealand.

I had the pleasure of serving with Senator Moseley-Braun for six years and I know her to be a dedicated, caring, intelligent, and hard-working public servant. I am confident she will carry these qualities to her new post in New Zealand.

Prior to her service in the United States Senate, Senator Moseley-Braun distinguished herself as a member of

the Illinois Legislature and as the Recorder of Deeds for Cook County, Illinois. From 1973 to 1977 she also served as Assistant District Attorney in the Northern District of Illinois.

In 1992, Carol Moseley-Braun made history by becoming the first African American female elected to the United States Senate. As a United States Senator, she dedicated herself to issues that would make a difference in the lives of ordinary Americans: increased funding for education, HMO reform and family and medical leave.

Following her service in the Senate, Senator Moseley-Braun continued to stay involved in the issues that mean most to her and become a consultant to the United States Department of Education.

On October 8, 1999, President Clinton presented her with a new challenge and nominated her to be United States Ambassador to New Zealand. I am sure her tenure as Ambassador will only add to this long and distinguished career.

The overwhelming and bi-bipartisan vote in favor of her nomination by the Senate Foreign Relations Committee should answer any critic that questions her qualifications to be the next ambassador to New Zealand.

New Zealand is an important ally and a vital part of our relations in the Asia-Pacific region. We need an ambassador who will be able to handle all aspects of United States-New Zealand relations and best represent our interests. Carol Moseley-Braun is the right person for that job.

Mr. President, I was proud to serve with Senator Moseley-Braun, I am proud to call her a friend and I am proud to support her nomination to be Ambassador to New Zealand.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Carol Moseley-Braun, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand and Samoa?

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), and the Senator from Arizona (Mr. KYL) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. KYL) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 361 Ex.]

YEAS—96

Abraham	Allard	Baucus
Akaka	Ashcroft	Bayh

Bennett	Frist	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bunning	Harkin	Robb
Burns	Hatch	Roberts
Byrd	Hollings	Rockefeller
Campbell	Hutchinson	Roth
Chafee, L.	Hutchinson	Santorum
Cleland	Inhofe	Sarbanes
Cochran	Inouye	Schumer
Collins	Jeffords	Sessions
Conrad	Johnson	Shelby
Coverdell	Kennedy	Smith (NH)
Craig	Kerrey	Smith (OR)
Crapo	Kerry	Snowe
Daschle	Kohl	Specter
DeWine	Landrieu	Stevens
Dodd	Lautenberg	Thomas
Domenici	Leahy	Thompson
Dorgan	Levin	Thurmond
Durbin	Lieberman	Torricelli
Edwards	Lincoln	Voinovich
Enzi	Lott	Warner
Feingold	Lugar	Wellstone
Feinstein	Mack	Wyden

NAYS—2

Fitzgerald Helms

NOT VOTING—2

Kyl McCain

The nomination was confirmed.

Mr. DURBIN. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The President will be notified of the action taken by the Senate.

NOMINATION OF LINDA JOAN MORGAN, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2003.

Mr. HOLLINGS. Mr. President, I rise in support of the nomination of Linda J. Morgan. Today we are considering the nomination of Linda Morgan to be reappointed as the chairman of the Surface Transportation Board. I am proud to say that I have known Chairman Morgan for many years. Although we may not always agree, I have a great deal of respect for her and know that two qualities she possesses in abundance are fairness and integrity. Those qualities, coupled with her commitment to public service, make her an outstanding chairman.

Before I discuss Chairman Morgan's abilities and accomplishments, I would like to comment briefly on the agreement reached between railroad management and labor this week on the cram down issue. As many of you know, the carriers and their employees have been working on the terms of an agreement which would create new rules pertaining to the abrogation of

collective bargaining agreements. Yesterday, the parties agreed to a moratorium on the filing of section 4 notices while the negotiations take place to establish new rules. I am pleased that the parties were able to reach a compromise on this important issue and urge the STB to look favorably on this agreement. In addition, I expect to address this issue legislatively next year when we take up the STB reauthorization bill.

As many of you know, Linda Morgan served as counsel for the Surface Transportation Subcommittee for 8 years and then as general counsel for the full Committee on Commerce, Science, and Transportation for seven years. During that time I found Linda Morgan to be one of the most intelligent and thorough professionals that I have worked with. She is smart and she cares about the issues—I know that she is committed to serving the public in her capacity as the chairman of the Surface Transportation Board.

Linda Morgan has served as chairman of the Surface Transportation Board (STB) since it was created in 1996. Prior to that, she served as chairman of the ICC. In 1996 she was responsible for implementing the changes that Congress envisioned in the Interstate Commerce Commission Termination Act. She pared down the ICC and established a new, more streamlined agency in its place, the STB.

Chairman Morgan is to be commended for her achievements and commitment to the mission of the STB during her first term. The STB operates with only 135 people, less than half the staff of its predecessor, but it is charged with regulating the entire railroad industry. Among her accomplishments, Chairman Morgan has facilitated creating a more efficient process for resolving rate disputes between shippers and carriers. Additionally, under her leadership, she has helped the private sector come to agreements on short line access and agricultural services arbitration which have benefited the entire transportation industry.

Chairman Morgan has done an outstanding job moving the agency through several different places. She successfully transitioned the agency from the ICC to the STB. She has seen the railroad industry through three very large merger transactions. She helped resolve the service issues in the west. And last year she ended the practice of using product and geographic competition in determining appropriate rates for shippers.

Linda Morgan has done a lot of heavy lifting during her tenure as chairman of the STB. She has my full confidence and I support her nomination.

Mr. BURNS. Mr. President, I rise today to oppose the nomination of Linda Morgan. During her tenure as the chairwoman of the Surface Transportation Board, Ms. Morgan has failed to achieve a primary goal of this independent agency—protecting the rights

of shippers using rail transportation. Earlier this year, I along with a number of other colleagues, introduced a bill, S. 621, that would help to create competition among rail carriers where that competition does not currently exist due to regional monopolization.

This bill would resolve the economic inequities found around our nation. In my State of Montana, our farmers pay dramatically more for transportation costs than farmers anywhere else in the State. In fact, on a proportionate comparison, Montana's farmers pay more than most other shippers in the world. Why? I'll tell you why—because nearly the entire State of Montana is captive to the Burlington Northern Santa Fe railroad. In the case of Montana farmers, Montana is captive to BNSF.

I cannot blame Ms. Morgan for this. The board's decision are based on misinterpreted statute that was legislated in the early 80's.

However, I can blame Ms. Morgan for not recognizing this as the case before the shippers asked me and several of my colleagues for assistance. It is inexcusable to treat the Nation's shippers so pitifully. It is arrogant on behalf of the railroads to think that they can take advantage of small shippers using strongarm tactics to determine shipping costs. It should not cost more to ship from Montana to the Pacific Northwest than it costs to ship from the Midwest to the Pacific Northwest—over the same tracks. This is an absurd manner in which to allow a railroad to operate.

Back to Ms. Morgan. It is about time for Congress to recognize the inequities in the rail industry. Competition is based on choice. Without multiple competitors to choose from, we are left with a monopoly. BNSF has a monopoly in Montana and the four behemoths that have evolved since the early 80s when we had over 40 large railroads have monopolies all across this Nation.

Let me quote Ms. Morgan from hearings held earlier this year:

Ms. Morgan has stated, "If Congress feels the statute doesn't work, it's up to Congress to provide a revision to the statute." Mr. President, Ms. Morgan is the chairwoman of the STB and a very intelligent woman. Ms. Morgan has recommended to this body that Congress would need to change the law in order to create an equitable environment. If the STB is saying this, if hundreds of shippers are saying this, if economists are saying this, why won't Congress react? I'll tell you why. Railroad interests in this city have a stronghold on legislation that would take away their ability to charge unchallenged rates.

Ms. Morgan has also stated the following:

"The role of the STB is to allow competition where it exists and protect those where it does not exist." Let me give you an example of where competition does not exist. Competition does not exist in the entire state of Montana. Competition does not exist in the

entire state of North Dakota. With four major railroads in the country, regional rail monopolies are very common. Montana was one of the first—we've been captive since 1980.

Another statement from Ms. Morgan.

"The board is there to make sure that no rate is unreasonable. The equalization of rates is not inherent in the statute." A goal of the STB is to make sure that no rate is "unreasonable". The STB could define as unreasonable the rate paid by Montana's farmers. These rates are unreasonable! Lastly, Ms. Morgan has indicated that, "The statute does not make competition a priority." I agree with her and that is why I am sympathetic. Her's is a thankless job and until Congress gives the STB the proper tools to decide cases in an equitable manner, it will continue to be a thankless job.

Mr. President, we have an opportunity to do what is right for America. I will not support Ms. Morgan but I will support reform of the STB.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I am pleased to vote to reappoint Surface Transportation Board, STB, Chairman Linda J. Morgan to serve another term on that panel even though I am troubled by some STB decisions concerning the CSX and Norfolk Southern acquisition of Conrail properties in New York State. I am encouraged, however, by Chairman Morgan's responsiveness to my requests, and those of my colleagues, to monitor the freight rail problems that have plagued New Yorkers since the June 1, 1999 implementation of the CSX/Norfolk Southern acquisition. Just last month, Chairman Morgan came to Buffalo to hear the concerns of local shippers.

As she begins her second term as Chairman of the STB, Linda Morgan has presided over the largest rail mergers in this Nation's history. Now the hard part begins. If service failures persist, Chairman Morgan must exercise her statutory authority to impose conditions upon the railroads. This will be no easy task. Revising one's work in the face of significant opposition requires courage. But I am confident that should the public interest so require, Chairman Morgan will respond boldly. Nothing short of the future of freight rail in the United States is at stake.

One additional thought is the role of organized labor in the freight rail industry. I would note that I do not find it fair that an interpretation of current Federal law permits the STB to revisit collective bargaining agreements dozens of years after a merger has been completed. There is a certain logic to providing the STB with the authority to abrogate local, State, and Federal laws to ensure the success of a merger. But the prospect that collective bargaining agreements—private contracts—can be the subject of renegotiation and mediation years after a merger has been consummated is troubling. In the 2nd session of the 106th Congress I will seek legislation to constrict the window of time following the

approval of a merger in which unions can be compelled to renegotiate collective bargaining agreements.

In closing, Mr. President, the Surface Transportation Board faces extraordinarily difficult decisions in the next few years. I believe that Linda Morgan's experience as a trusted advisor and counsel to the Senate Commerce Committee and her chairmanship of the STB have prepared her well for the challenges that lie ahead. I yield the floor.

Mr. LOTT. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 362 Ex.]

YEAS—96

Abraham	Brownback	Crapo
Akaka	Bryan	Daschle
Allard	Bunning	DeWine
Ashcroft	Byrd	Dodd
Baucus	Campbell	Domenici
Bayh	Chafee, L.	Dorgan
Bennett	Cleland	Durbin
Biden	Cochran	Edwards
Bingaman	Collins	Enzi
Bond	Conrad	Feingold
Boxer	Coverdell	Feinstein
Breaux	Craig	Fitzgerald

Frist	Kerry
Gorton	Kohl
Graham	Kyl
Gramm	Landrieu
Grass	Lautenberg
Grassley	Leahy
Gregg	Levin
Hagel	Lieberman
Harkin	Lincoln
Hatch	Lott
Helms	Lugar
Hollings	Mack
Hutchinson	McConnell
Hutchison	Mikulski
Inhofe	Moynihan
Inouye	Murkowski
Jeffords	Murray
Johnson	Nickles
Kennedy	Reed
Kerrey	Reid

Robb
Roberts
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—3

Burns

Rockefeller

Specter

NOT VOTING—1

McCain

The nomination was confirmed.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### UNANIMOUS CONSENT AGREEMENT—H.J. RES. 78

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to consideration of the continuing resolution just received from the House, that there be 15 minutes under the control of Senator EDWARDS, and following the conclusion or yielding back of time, the resolution be read for the third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. LOTT. So Members will know what they can expect the next few hours in the Senate, I ask consent that following the continuing resolution, the pending Kohl amendment No. 2516 be modified to reflect the text of amendment No. 2518 and that it be in order for the majority manager of the bill to withdraw the second degree amendment No. 2518, and Senators HUTCHISON and BROWNBACK be recognized to offer a second degree amendment and there be 1 hour for debate, equally divided in the usual form, and no other second degree amendments be in order to amendment No. 2516.

I further ask consent that a vote occur on or in relation to the Hutchison amendment to be followed immediately by a vote in relation to the first degree amendment, as amended, if amended, following the conclusion or yielding back of time.

I further ask consent that following the votes just described, Senator WELLSTONE be recognized to offer his amendment relative to agriculture.

Finally, I ask consent that following the votes relative to the Hutchison amendment, all amendments relative to homestead be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, basically we will have two votes with regard to the homestead issue after 1 hour, and then we will go to the Wellstone amendment, which has 4 hours. I hope there will be much less than 4 hours necessary for that. I assure Members there will be less than that.

That is the lineup of what will happen now for the remainder of the afternoon.

#### NOTICE

*Incomplete record of Senate proceedings.*

*Today's Senate proceedings will be continued in the next issue of the Record.*